IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 3564 OF 2002

IN

SUIT NO. 3406 OF 2002

State Bank of India .. Plaintiff

versus

M/s.Lakhani Engineering Works & ors... Defendants

...

Mr.Prakash Shinde i/b M.Dhruve & Co. for the plaintiff.

None for the defendants.

CORAM : D.G. KARNIK,J.

DATED : 28th January 2005.

P.C.:

1. Heard the learned counsel for the plaintiff.

2. The motion arises out of the suit for recovery of money filed by the plaintiff. By this motion, the

plaintiff has prayed for appointment of a receiver and injunction restraining the defendant from selling the property.

3. So far as the relief of appointment of receiver is concerned, absolutely no grounds have been made out for appointment of receiver. In paragraph no.4 of the affidavit in support which states that it is apparent that the business of the defendant has come to a stand still. In paragraph no.11 of the affidavit in reply, the defendant has denied this and has stated that stocks valued more than 5 lakhs are with him and he is carrying out the business. No affidavit in rejoinder has been filed denying this. In the circumstances, no ground for appointment of receiver is made out.

4. As regards the injunction, there is no averment made in the affidavit in support that the defendant is trying to dispose of any of the property with a view to delay and for defeat the claim of the plaintiff. Vague averments are made in paragraph no.4 that the plaintiff apprehends that the defendants will dispose of, alienate, deal with or encumber the immovable properties. The apprehension

is not based on any information. In any event, no source of information is disclosed in the plaint or in the affidavit in support of the notice of motion. No injunction be granted on the basis of vague allegations of apprehension.

5. In the circumstances, motion is dismissed.

D.G. KARNIK, J